

professional who made the determination of fitness shall consult with the licensee's or other entity's management personnel to identify the actions required to ensure that any possible limiting condition does not represent a threat to workplace or public health and safety. Licensee or other entity management personnel shall implement the required actions. When appropriate, the subject individual may also be referred to the EAP.

(d) Neither the individual nor licensees and other entities may seek a second determination of fitness if a determination of fitness under this part has already been performed by a qualified professional employed by or under contract to the licensee or other entity. After the initial determination of fitness has been made, the professional may modify his or her evaluation and recommendations based on new or additional information from other sources including, but not limited to, the subject individual, another licensee or entity, or staff of an education or treatment program. Unless the professional who made the initial determination of fitness is no longer employed by or under contract to the licensee or other entity, only that professional is authorized to modify the evaluation and recommendations. When reasonably practicable, licensees and other entities shall assist in arranging for consultation between the new professional and the professional who is no longer employed by or under contract to the licensee or other entity, to ensure continuity and consistency in the recommendations and their implementation.

Subpart I—Managing Fatigue

§ 26.201 Applicability.

The requirements in this subpart apply to the licensees and other entities identified in § 26.3(a), and, if applicable, (c) and (d). The requirements in §§ 26.203 and 26.211 apply to the individuals identified in § 26.4 (a) through (c). In addition, the requirements in § 26.205 through § 26.209 apply to the individuals identified in § 26.4(a).

§ 26.203 General provisions.

(a) *Policy.* Licensees shall establish a policy for the management of fatigue for all individuals who are subject to the licensee's FFD program and incorporate it into the written policy required in § 26.27(b).

(b) *Procedures.* In addition to the procedures required in § 26.27(c), licensees shall develop, implement, and maintain procedures that—

(1) Describe the process to be followed when any individual identified in § 26.4(a) through (c) makes a self-declaration that he or she is not fit to safely and competently perform his or her duties for any part of a working tour as a result of fatigue. The procedure must—

(i) Describe the individual's and licensee's rights and responsibilities related to self-declaration;

(ii) Describe requirements for establishing controls and conditions under which an individual may be permitted or required to perform work after that individual declares that he or she is not fit due to fatigue; and

(iii) Describe the process to be followed if the individual disagrees with the results of a fatigue assessment that is required under § 26.211(a)(2);

(2) Describe the process for implementing the controls required under § 26.205 for the individuals who are performing the duties listed in § 26.4(a);

(3) Describe the process to be followed in conducting fatigue assessments under § 26.211; and

(4) Describe the disciplinary actions that the licensee may impose on an individual following a fatigue assessment, and the conditions and considerations for taking those disciplinary actions.

(c) *Training and examinations.* Licensees shall add the following KAs to the content of the training that is required in § 26.29(a) and the comprehensive examination required in § 26.29(b):

(1) Knowledge of the contributors to worker fatigue, circadian variations in alertness and performance, indications and risk factors for common sleep disorders, shiftwork strategies for obtaining adequate rest, and the effective use of fatigue countermeasures; and

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(2) Ability to identify symptoms of worker fatigue and contributors to decreased alertness in the workplace.

(d) *Recordkeeping.* Licensees shall retain the following records for at least 3 years or until the completion of all related legal proceedings, whichever is later:

(1) Records of work hours for individuals who are subject to the work hour controls in § 26.205;

(2) For licensees implementing the requirements of § 26.205(d)(3), records of shift schedules and shift cycles, or, for licensees implementing the requirements of § 26.205(d)(7), records of shift schedules and records showing the beginning and end times and dates of all averaging periods, of individuals who are subject to the work hour controls in § 26.205;

(3) The documentation of waivers that is required in § 26.207(a)(4), including the bases for granting the waivers;

(4) The documentation of work hour reviews that is required in § 26.205(e)(3) and (e)(4); and

(5) The documentation of fatigue assessments that is required in § 26.211(g).

(e) *Reporting.* Licensees shall include the following information in a standard format in the annual FFD program performance report required under § 26.717:

(1) A summary for each nuclear power plant site of all instances during the previous calendar year when the licensee waived one or more of the work hour controls specified in § 26.205(d)(1) through (d)(5)(i) and (d)(7) for individuals described in § 26.4(a). The summary must include only those waivers under which work was performed. If it was necessary to waive more than one work hour control during any single extended work period, the summary of instances must include each of the work hour controls that were waived during the period. For each category of individuals specified in § 26.4(a), the licensee shall report:

(i) The number of instances when each applicable work hour control specified in § 26.205(d)(1)(i) through (d)(1)(iii), (d)(2)(i) and (d)(2)(ii), (d)(3)(i) through (d)(3)(v), and (d)(7) was waived for individuals not working on outage activities;

(ii) The number of instances when each applicable work hour control

specified in § 26.205(d)(1)(i) through (d)(1)(iii), (d)(2)(i) and (d)(2)(ii), (d)(3)(i) through (d)(3)(v), (d)(4) and (d)(5)(i), and (d)(7) was waived for individuals working on outage activities; and

(iii) A summary that shows the distribution of waiver use among the individuals within each category of individuals identified in § 26.4(a) (e.g., a table that shows the number of individuals who received only one waiver during the reporting period, the number of individuals who received a total of two waivers during the reporting period).

(2) A summary of corrective actions, if any, resulting from the analyses of these data, including fatigue assessments.

(f) *Audits.* Licensees shall audit the management of worker fatigue as required by § 26.41.

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§ 26.205 Work hours.

(a) *Individuals subject to work hour controls.* Any individual who performs duties identified in § 26.4(a)(1) through (a)(5) shall be subject to the requirements of this section.

(b) *Calculating work hours.* For the purposes of this section, a licensee shall calculate the work hours of individuals who are subject to this section as the amount of time the individuals perform duties for the licensee. Except as permitted by paragraphs (b)(1) through (b)(5) of this section, the calculated work hours must include all time performing duties for the licensee, including all within-shift break times and rest periods during which there are no reasonable opportunities or accommodations appropriate for restorative sleep.

(1) *Shift turnover.* Licensees may exclude shift turnover from the calculation of an individual's work hours. Shift turnover includes only those activities that are necessary to safely transfer information and responsibilities between two or more individuals between shifts. Shift turnover activities may include, but are not limited to, discussions of the status of plant equipment, and the status of ongoing activities, such as extended tests of safety systems and components. Licensees may not exclude work hours